

**RULES
OF
DEPARTMENT OF REVENUE
MOTOR FUEL AND ROAD TAXES**

**CHAPTER 560-9-1
MOTOR FUEL TAX**

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560-9-1-.01. Refund of motor fuel excise tax.

(1) General. Claims for a refund of the motor fuel excise tax under O.C.G.A. § 48-9-10 must be made on forms required by the Georgia Department of Revenue and verified by an affidavit of the claimant or a corporate officer if the claimant is a corporation.

(2) Distributors. A distributor claiming a motor fuel excise tax refund must use Revenue Form MFD-33.

(3) Retail dealers. A retail motor fuel dealer claiming a refund amounting to 2 percent of the first 5 ½ cents per gallon of the motor fuel excise tax as compensation to cover losses for evaporation, shrinkage or spillage under O.C.G.A. § 48-9-10(c) must use Revenue Form MFR-21.

(a) Obtaining a refund permit. A retail motor fuel dealer seeking an initial refund of motor fuel tax under this subparagraph must first obtain a refund permit from the Department. A retail dealer can apply for a permit and seek a refund at the same time by including the phrase

“APPLIED FOR” on Form MFR-21 in the “Permit Number” section of the form. After validating the data supplied on the form, the Department will issue a permit number to the dealer and process the claim.

(b) Retention of invoices. A retail motor fuel dealer claiming a refund should not attach to Form MFR-21 any invoices or other documentation supporting its claim. Instead, the dealer must retain all original invoices or other documentation for three years from the date the dealer receives a refund. The Department shall assess a dealer for any refund previously paid if the dealer fails to retain all invoices or other documentation relating to the refund for the three-year period during which it can be claimed.

(c) Invoices or other documentation must specify:

1. Actual date of delivery;
2. Name and address of purchaser;
3. Name and address of seller preprinted on the invoice;
4. Amount of motor fuel tax charged;
5. All applicable state and federal taxes;
6. Amount of metered gallons purchased, type of fuel, and total cost of fuel; and
7. Serial or sequential invoice numbers.

(4) Agricultural crops. A person claiming a refund of motor fuel excise tax paid on the purchase of gasoline used for the production of agricultural crops under O.C.G.A. § 48-9-10(b) must use Revenue Form MFR-03.

(5) Agricultural field use. A person claiming a refund of motor fuel tax paid on the purchase of diesel fuel used in vehicles licensed for agricultural field use under O.C.G.A. § 48-9-10(a)(3) must use Revenue Form MFR-04.

(6) Non-dyed fuel oils used for non-highway purposes. A person claiming a refund of motor fuel excise tax paid on the purchase of non-

dyed diesel fuel that is used for non-highway use under O.C.G.A. § 48-9-10(b)(2) must use Revenue Form MFR-43.

Authority: O.C.G.A. §§ 48-2-12, 48-9-10.

560-9-1-.02. Preservation of distributor records.

(1) General.

(a) A distributor is required to preserve sales and purchase records upon which its motor fuel tax report is based for three years from the return due date or filing date, whichever is later, plus any time period included as a result of waivers or jeopardy assessments.

(b) A distributor's failure to provide records demanded for audit purposes will extend the three-year record retention requirement until all records have been provided.

(c) Records may be kept on microfilm, microfiche, or any other electronic or condensed information retrieval system acceptable to the Georgia Department of Revenue and must be made available for inspection or audit by the Department.

(2) Purchase records.

(a) A distributor must keep adequate records to substantiate any item appearing on its monthly motor fuel tax report and also maintain complete records of inventories, purchases, receipts, and tank or meter readings.

(b) A distributor must keep adequate records of purchases of motor fuel products, the seller from whom each purchase was made, the commodity purchased, the date, invoice number, total gallons and value of each purchase, method of transportation, a shipping receipt for each delivery accepted, and any motor fuel purchase diversion notices.

(3) Sales records.

(a) A distributor must keep a sales record indicating each sale of motor fuel, the person to whom each sale was made, and the address, commodity sold, date and invoice number, total gallons, and value of

each sale. The sales record must also indicate the amount of motor fuel subject to motor fuel and prepaid state taxes and the amount of fuel sold that is exempt from tax.

(b) A distributor must prepare a serially numbered invoice for each sale of motor fuel whether the fuel is sold for highway or off-road use. A single invoice covering multiple deliveries of fuel during a period of time not to exceed a calendar month shall constitute an invoice for each sale. If a multiple delivery invoice includes taxed and tax-exempt sales, the taxed sales must be clearly labeled on the invoice. The invoice shall be delivered to the purchaser with a copy retained by the distributor.

(c) A sales invoice must contain the following information:

1. Name and address of the distributor;
2. Date of sale;
3. Name and address of the purchaser;
4. Whether a credit or cash sale;
5. Number of gallons of motor fuel sold, the price per gallon, and the total amount of the sale;
6. Any applicable state or federal taxes;
7. Location where the fuel was delivered if other than the purchaser's business address.
8. Any diversion notice information associated with such motor fuel sale.

Authority: O.C.G.A. §§ 48-2-12, 48-9-8.

560-9-1-.03. Distributor quarterly and annual tax reports.

(1) Quarterly filing requirements.

(a) A distributor may file its motor fuel tax reports on a quarterly basis using Form MFD-04 if its total motor fuel tax liability equals or is less than \$500 for any calendar quarter.

(b) Quarterly motor fuel tax reports and all tax due must be filed on or before the 20th day of the month following the close of each calendar quarter in order to be considered timely filed.

(2) Annual filing requirements.

(a) A distributor may file its motor fuel tax reports on an annual basis using Form MFD-04 if its total motor fuel tax liability equals or is less than \$500 for any calendar year.

(b) Annual motor fuel tax reports and all tax due must be filed on or before the 20th day of the month following the close of each calendar year in order to be considered timely filed.

(3) General filing requirements.

(a) Distributors filing quarterly or annual reports are allowed distributor allowances on the same basis as distributors who file monthly. Distributors filing quarterly or annual reports are liable for penalties and interest on the same basis as distributors who file monthly.

(b) To file on a quarterly or annual basis, a distributor must submit a written request to the Georgia Department of Revenue no later than thirty days prior to the applicable quarter or year, respectively.

(c) The Department may terminate a distributor's quarterly or annual report filing privileges if the distributor fails to file such reports timely. Upon termination of its privilege, the distributor will be required to file reports monthly.

(d) A distributor must file a final report and pay all tax due within fifteen days following termination of business.

Authority: O.C.G.A. §§ 48-2-12, 48-9-8.

560-9-1-.04. Calculation of compressed petroleum gas usage.

Where it is impossible, for tax compliance purposes, to accurately gauge or measure the amount of compressed petroleum gas gallonage consumed for highway use, the Georgia Department of Revenue shall determine the amount of motor fuel excise taxes due in gallons using the following allowances and measurements:

- (a) Trucks with more than two axles: 5 miles per gallon.
- (b) Tank Wagons and two-axle vehicles weighing at least one ton: 7 miles per gallon.
- (c) Trucks weighing less than one ton and passenger vehicles: 14 miles per gallon.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.05. Distributor's loss of motor fuel prior to accrual of tax.

- (1) All distributors must report losses of motor fuel sustained due to fire, theft, spillage, spoilage, leakage, or any other provable cause when filing a tax report for the period during which such loss occurred.
- (2) The filing of a tax report indicating a loss does not assure credit for such loss, but failure to report such loss promptly may result in the Georgia Department of Revenue's refusal of credit.
- (3) A distributor must provide the Department with an affidavit explaining the facts pertaining to the specific acts causing the loss, along with related insurance documentation and such other evidence as required by the Department.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.06. Non-highway use exemption and inadequate documentation. When consumers of motor fuel, including city and county governments and contractors, are using motor fuel for a construction project on a public highway, and have failed to keep adequate records to calculate the total amount of fuel used, the Georgia Department of Revenue shall allow an exemption for non-highway use in an amount no greater than twenty-five percent of the total amount claimed.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.07. Calculation of motor fuel tax for compressed natural gas.

(1) Purpose of rule. The purpose of this rule is to provide guidance regarding calculation of the motor fuel tax applicable to compressed natural gas (“CNG”) on a gallon-equivalent basis pursuant to O.C.G.A. § 48-9-3(a)(4).

(2) Definitions.

(a) “Gallon-equivalent basis” means the potential power equivalent, expressed in British thermal units, of compressed natural gas that is equivalent to one gallon of regular-grade gasoline.

(b) “British thermal unit” (BTUs) means the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

(c) “Cubic foot” means the amount of gas occupying a cubic foot of space at a pressure of 30 inches of mercury (approximately 14.7 pounds per square inch) and a temperature of 60 degrees Fahrenheit.

(3) Calculation of tax. Motor fuel taxes imposed on compressed natural gas must be calculated on a gallon-equivalent basis.

(a) The gallon-equivalent basis of compressed natural gas equals 124,000 British thermal units.

(b) Equivalency table.

100 cubic feet of CNG = 1 Therm

1 Therm = 100,000 BTUs

1 gallon of regular-grade gasoline = 124,000 BTUs

1 Therm = .8 gallons of regular-grade gasoline

(c) To calculate the gallon-equivalent basis of compressed natural gas, multiply the amount of Therms by .8, then multiply the result by the applicable motor fuel excise tax and prepaid state tax rates.

Authority: O.C.G.A. §§ 48-2-12, 48-9-3.

560-9-1-.08 Calculation of prepaid state tax rates.

(1) General.

(a) The purpose of this rule is to provide guidance relating to the calculation of the prepaid state tax as defined under O.C.G.A. § 48-8-2(5.1).

(b) The Georgia Department of Revenue shall calculate and publish the prepaid state tax rates within thirty days prior to January 1 and July 1 each year on the Department's Internet website.

(2) Calculation Methods.

(a) Gasoline except for aviation gasoline. The Department shall use a weighted average to calculate the prepaid state tax for sales of regular, mid-grade and premium unleaded gasoline. It shall be computed by initially dividing the total sales of each grade of gasoline in Georgia by all gasoline sales in Georgia during a semi-annual period. The respective percentages for each grade of gasoline shall then be multiplied by the statewide average retail price for each grade of gasoline, exclusive of all state motor fuel excise taxes and state and local sales and use taxes, to determine a single composite retail price for all grades of gasoline. The composite retail price of gasoline will then be multiplied by 4 percent (or 3 percent for sales to state or local governments) to establish the prepaid state tax at a comparable cent per gallon rate to be used on the Department's Motor Fuel Tax Return (Form MFD-04).

(b) All other types of motor fuel, including aviation gasoline. The Commissioner shall use the average retail sales price in Georgia for each type of motor fuel during a semi-annual period to calculate the applicable prepaid state tax. The prepaid state tax shall be computed by multiplying the average retail price for each type of motor fuel, exclusive of all state excise and state and local sales and use taxes, by 4 percent (or 3 percent for sales to state or local governments).

(3) Prepaid State Tax Rate Revisions.

(a) If the average retail price for any type of motor fuel changes by 25 percent or more during a semi-annual period, the Department shall

recalculate the prepaid state tax rate for that particular type of motor fuel.

(b) The Department shall publish the revised prepaid state tax rate on the Department's Internet website and such publication shall be made at least thirty days prior to its effective date, which will be on the first day of the next calendar month.

(4) International Fuel Tax Agreement (IFTA) Composite Rate.

(a) The IFTA motor fuel tax rate shall combine the state motor fuel excise tax rate imposed under O.C.G.A. § 48-9-3(a)(1) and the second motor fuel tax rate imposed under O.C.G.A. § 48-9-14. The Department shall publish this rate on the Department's Internet website each calendar quarter.

(b) The quarterly IFTA motor fuel tax rate will be based on the average retail sales price exclusive of all state motor fuel excise taxes and state and local sales and use taxes, and will be the same as the published prepaid state tax rate for each fuel type.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.09. Racing fuel.

(1) Definitions.

(a) For purposes of this rule, the term "racing fuel" is defined as gasoline:

1. Sold in bulk for use in motor vehicles not eligible to be registered for highway use;
2. With an octane rating of 100 or higher;
3. Having 1.0 gram of lead per gallon or more;
4. With no detergent additives;
5. That does not conform to the Reid Vapor Pressure standards for reformulated or oxygenated gasoline; and

6. That does not meet ASTM specifications for conventional unleaded gasoline.

(b) “Prepaid state tax” has the same meaning as defined under O.C.G.A. § 48-8-2(5.1).

(2) Rule. Racing fuel is not subject to motor fuel excise tax and prepaid state tax unless it is used as either straight or blended gasoline in a motor vehicle operated on public highways. If the sale of racing fuel is not subject to motor fuel excise tax and prepaid state tax, it will be subject to state and local sales and use tax.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.10 Jet Fuel.

(1) Definitions. For purposes of this rule, the following definitions shall apply:

(a) “Jet fuel” means any type of fuel oil that may be used to propel aircraft powered by turbine or turboprop engines. Jet fuel does not include aviation gasoline as defined under O.C.G.A. § 48-9-2(1).

(b) “Local sales and use taxes” means the taxes levied on the sale or use of motor fuel and imposed in an area consisting of less than the entire State of Georgia, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendments, the Metropolitan Atlanta Rapid Transit Authority Act of 1965, and Articles 2, 2A, 3, and 4 of Chapter 8 of Title 48 of the Official Code of Georgia, Annotated.

(c) “Prepaid state tax” has the same meaning as defined under O.C.G.A. § 48-8-2(5.1).

(2) General rule.

(a) The sale or use of jet fuel for highway use in diesel engines is subject to motor fuel excise tax, prepaid state tax, and local sales and use taxes.

(b) The sale or use of jet fuel for other than highway use is subject to state and local sales and use taxes. To exempt the sale from motor fuel excise and prepaid state taxes under O.C.G.A. § 48-9-3(b) (7) (B) (ii) (I), the purchaser must provide the distributor with Revenue Form MFD-03 declaring that the fuel is not intended for highway use and that the purchaser is not a reseller of jet fuel.

(3) Sales for resale.

(a) Motor fuel excise tax and state and local sales and use taxes shall not be charged on the sale of jet fuel by a licensed motor fuel distributor to a fixed base operator located within an airport who is also a licensed motor fuel distributor and a dealer registered for the collection and remittance of sales and use tax.

(b) Motor fuel excise tax and prepaid state taxes shall be charged on the sale of jet fuel by a licensed motor fuel distributor to any other reseller who is not a licensed motor fuel distributor. If the reseller is not a dealer registered for the collection and remittance of sales and use tax, then local sales and use tax will also apply to the sale of jet fuel.

(4) Consumption of inventory.

(a) State and local use taxes must be remitted at the tax rate based on the county of use when a licensed motor fuel distributor uses jet fuel for non-highway purposes.

(b) Motor fuel excise tax, prepaid state tax, and local sales and use tax must be remitted when a licensed motor fuel distributor uses jet fuel for highway use.

Authority: O.C.G.A. § 48-2-12.

560-9-1-.11 Dyed diesel fuel.

(1) Purpose. The purpose of this rule is to provide guidance regarding the application of motor fuel excise tax and prepaid state tax (combined hereinafter as the “motor fuel excise tax”) as imposed under O.C.G.A. §§ 48-9-3 and 48-9-14, respectively, to the sale of dyed diesel fuel.

(2) Definitions. For purposes of this rule, the following definitions shall apply:

(a) “Dyed diesel fuel” means diesel fuel dyed pursuant to United States Environmental Protection Agency (EPA) regulations for high sulfur diesel fuel, United States Internal Revenue Service (IRS) regulations for low sulfur diesel fuel, or any other requirements subsequently promulgated by the EPA or IRS.

(b) “Local sales and use taxes” means the taxes levied on the sale or use of motor fuel and imposed in an area consisting of less than the entire State of Georgia, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendments, the Metropolitan Atlanta Rapid Transit Authority Act of 1965, and Articles 2, 2A, 3, and 4 of Chapter 8 of Title 48 of the Official Code of Georgia, Annotated.

(c) “Prepaid state tax” has the same meaning as defined under O.C.G.A. § 48-8-2(5.1).

(3) Taxation of dyed diesel fuel.

(a) Non-highway use. Sales of dyed diesel fuel by licensed distributors to consumers for non-highway use are not subject to motor fuel excise tax but are subject to state and local sales and use taxes.

(b) Highway use. Sales of dyed diesel fuel by licensed distributors to consumers for highway use are subject to the motor fuel excise tax, prepaid state tax, and local sales and use taxes. Sales for highway use include, but are not limited to:

1. Dyed diesel fuel used to construct, reconstruct, maintain, or repair a road within a right of way that is currently, or will be, a public right of way;

2. Dyed low-sulfur diesel fuel used by any motor vehicle owned or leased by any state, county, municipality, or other political subdivision operated on Georgia’s public highways. Such sales to political subdivisions and instrumentalities, however, would not be subject to state and local sales and use taxes.

(4) Dyed diesel fuel used in refrigeration units. The purchase of dyed diesel fuel used in a refrigeration unit, to the extent that the unit is attached to a motor vehicle operated on a public highway but not used to propel the vehicle, is exempt from Georgia motor fuel and prepaid state taxes but remains subject to Georgia state and local sales and use taxes.

Authority: O.C.G.A. §§ 48-2-12, 48-9-8.